

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sheila Donovan	Team: Team # 7	CCRB Case #: 200706634	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/09/2007 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 62	18 Mo. SOL 11/9/2008	EO SOL 11/9/2008	
Date/Time CV Reported Fri, 05/11/2007 1:22 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/11/2007 1:22 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. CPT Michael Lipetri	00000	906647	NARCBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Charles Derosalia	01289	928188	NARCBBS
2. SGT Andrew Hillery	01031	925457	NARCBBS
3. POM John Rivera	12957	932207	NARCBBS
4. DT3 Jason Levy	06945	928639	NARCBBS
5. DT3 Patrick Brady	06240	898964	NARCBBS
6. POM Albert Marvelli	13476	927148	NARCBBS

Officer(s)	Allegation	Investigator Recommendation
A.CPT Michael Lipetri	Abuse: Captain Michael Lipetri authorized the entry and search of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. Officers	Force: Officers pointed their guns at § 87(2)(b)	§ 87(2)(b)

Synopsis

On May 11, 2007, § 87(2)(b) made this complaint on behalf of her husband, § 87(2)(b) via phone. She stated that on May 9, 2007, at approximately 6:00AM, officers broke down the door and entered their home at § 87(2)(b) with their guns pointed (Allegations A and B). § 87(2)(b) stated that no arrests were made and that the police apologized for going into the wrong apartment before they left.

Search Warrant #§ 87(2)(b) was issued in reference to § 87(2)(b)'s apartment, § 87(2)(b) with the belief that there was reasonable cause for believing that property indicative of drug sales would be found at this location. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

This case was placed on the agency's sensitive case list due to media coverage by the Daily News newspaper on § 87(2)(b) (encl. 1A) and the internet site United Press International (encl. 1B).

Summary of Complaint

§ 87(2)(b) was not interviewed for this case because she was not present when the incident occurred.

§ 87(2)(b) was interviewed at the CCRB on May 30, 2007 with the assistance of an Arabic speaking interpreter from All City Interpreting. On May 9, 2007, at approximately 6:00AM, § 87(2)(b) was at home, at § 87(2)(b) alone and asleep in his bedroom on a mattress on the floor. He had been home since 1:00AM. He lives with his wife § 87(2)(b) but she was not home and he had not had any visitors that night. They had lived in the apartment since February 2007. He heard his front door being broken and then approximately twenty-five police officers entered. Two to three officers came into his room wearing police uniforms. § 87(2)(b) was pushed with a glass shield and an officer pointed a gun at § 87(2)(b)'s head (a few inches away) and told him not to move. Another officer, wearing the short sleeved police uniform, put handcuffs on him, pushed him to the floor, pulled him up of the ground, and took him outside the room and into the hallway outside of the apartment.

§ 87(2)(b) stood facing the wall for a half hour. Another officer was there who was wearing a suit. The officer in the suit had a birthmark on his lip and was a white male. Officers were searching the apartment. § 87(2)(b) did not see them searching the apartment because he was outside but knew that they did because when he returned later everything in a suitcase was pulled out and the bed was upside down. Some officers were asking § 87(2)(b) if he was okay. § 87(2)(b) stated that he had "lost his mind" and could not remember what any of these officers looked like. A short white female officer in uniform came out of the room and the officer who was standing beside § 87(2)(b) asked her if she found anything and she said, "Nothing, nothing, nothing." After a half hour passed, the police released him and allowed him to go back into his room. An officer asked him who was living in the apartment before him. § 87(2)(b) told him, "I don't know, ask the super, I have been here since February." The officer asked § 87(2)(b) if he knew the super and § 87(2)(b) provided the phone number. The super came and the officers asked the super if he knew § 87(2)(b). Then the officers left. One officer came back and apologized to § 87(2)(b) and then asked him if he wanted to go to the hospital. This officer asked § 87(2)(b) for his name and told him to sign a piece of paper with his name. The paper was folded over and had printing on it. He cannot read but he did sign the paper. The officer did not explain what was on the paper. That officer was wearing a tie and suit, a white shirt and was white. The super called an ambulance for § 87(2)(b). The police had left by the time the ambulance came. The super accompanied him in the ambulance. § 87(2)(b) did not find out why the officers had come to the apartment.

§ 87(2)(b) stated that he was not physically injured but that he "lost his mind." § 87(2)(b) stated that he is frightened every time his door opens. There was money in a plastic bag, in between his clothes. He and his wife keep that money in the house for shopping and to pay the rent. Two thousand dollars was missing after this incident.

Results of Investigation

§ 87(2)(b)

§ 87(2)(b) is the superintendent of § 87(2)(b) in Brooklyn. A field visit was made to the location on June 26, 2007; however, § 87(2)(b) refused to provide a formal statement. He explained that on the date of this incident he was awoken by a phone call and an officer asked him to come to § 87(2)(b)'s apartment to fix the door. Officers asked him how long § 87(2)(b) had been living in the apartment and showed him the door which he needed to fix because the center panel had been broken through. § 87(2)(b) was standing against the wall in the front lobby of the building. His body was shaking. § 87(2)(b) told § 87(2)(b) that he was going to the hospital. § 87(2)(b) heard officers apologizing to § 87(2)(b).

Allegations Referred to IAB

The allegation regarding the missing money was reported to the IAB by the CCRB on May 11, 2006 and given log number 07-17860.

Officers

Officers were not interviewed for this investigation. § 87(2)(g)

Police Documents

The **Search Warrant Pre-Execution Plan (PD374-150)** lists the names of the officers involved in executing the no-knock warrant at § 87(2)(b) in Brooklyn: Captain Michael LiPetri, Sgt. Andrew Hillery, Det. Charles DeRosalia, PO John Rivera, PO Jason Levy, Det. Patrick Brady, and PO Albert Marvelli (encl. 8A-8B). The potential hazard/problem noted for the execution of this warrant was the "Possibility of evidence being flushed down toilet or thrown out of window." A diagram of the building's lobby and of § 87(2)(b)'s apartment is also included. The location of the apartment in relationship to the lobby, as indicated on the diagram's leftmost image is consistent with the investigator's knowledge of the layout observed during a field visit on June 26, 2007. § 87(2)(b)'s door was described on the details as a brown door with its apartment number on it.

The **Warrant Tracking System Pre-Warrant Data Entry Form (PD 374-143)** indicates that the requesting officer was Det. Charles DeRosalia and the supervising officer was Sgt. Andrew Hillery (encl. 9). The requested warrant is a local search warrant. The reason the warrant was requested is information from a confidential informant, § 87(2)(b). The date the warrant was applied for and/or obtained was § 87(2)(b) by the Honorable Judge § 87(2)(b). The Warrant Exception is "no-knock." The warrant was issued for § 87(2)(b)'s exact address. The warrant objective is noted as "narcotics."

Search Warrant § 87(2)(b) indicates that the warrant was issued in order to search for narcotics, paraphernalia and/or other evidence of drug trafficking activity (encl. 13A-13C). The warrant implicates § 87(2)(b)'s apartment and describes a person to be searched if present on the premises. This individual was a white male, approximately 50 years old, 5'6" tall with dark hair in a ponytail.

The **Warrant Tracking System Post-Warrant Data Entry Form (PD 374-143)** § 87(2)(e) The form indicates that the officers encountered no resistance during the entry and that the warrant was returned to the court.

Conclusions and Recommendations

Undisputed and Disputed Facts

There are no disputed facts in this case.

Analysis

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b) alleged that during the entry he was pushed with a glass shield, pushed to the floor and pulled up from the ground by officers. § 87(2)(g)

Allegation A: Captain Michael Lipetri authorized the entry and search of § 87(2)(b) in Brooklyn.

Allegation B: Officers pointed their guns at § 87(2)(b)

The paperwork acquired during the investigation of this case indicated that the officers who entered § 87(2)(b)'s apartment were in possession of a no-knock search warrant. § 87(2)(e), § 87(2)(g)

In reference to the allegation that officers had their guns drawn and pointed, according to PD. v. Gliner, “The policy of the Department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another’s personal safety” (encl. 2A-2U). § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: